IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 532 of 2006 (M/B)

Farahat Ali Khan S/o Sri Mohammad Ali Khan,
R/o Qasba Richha, Tehsil Baheri,
District Bareilly. …….. Petitioner

Versus

1. State of Uttaranchal,
   through Secretary, Forest Department,
   Dehradun.
2. District Magistrate,
   Udham Singh Nagar.
3. Land Development Co.,
   State Industrial Development Corporation,
   Industrial Park Jail Camp Sitarganj,
   District Udham Singh Nagar. …….. Respondents

Mr. M.S. Pal, Senior Counsel with Mr. V.S. Pal, Advocate for the petitioner.
Mr. J.P. Joshi, Addl. Chief Standing Counsel for respondents Nos. 1 and 2.
Mr. Vipul Sharma, Advocate for respondent no. 3.

JUDGEMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. Prafulla C. Pant. J.

RAJEEV GUPTA, C.J. (Oral)

Mr. M.S. Pal, Senior Counsel with Mr. V.S. Pal, Advocate for the petitioner.

Mr. J.P. Joshi, Addl. Chief Standing Counsel for respondents Nos. 1 and 2.

Mr. Vipul Sharma, Advocate for respondent no. 3.

They are heard on admission.

2. Petitioner Farahat Ali Khan has filed this writ petition for the following reliefs:

> "a. Issue a writ, order or direction in the nature of Certiorari to quash the impugned advertisement / tender notice dated 03.05.2006 contained in Annexure – 5 passed by the respondent No. 2;
>
> b. Issue a writ, order or direction in the nature of mandamus directing the respondents to accept the tender of the petitioner as he has highest bids;

c. Issue a writ, order or direction in the nature of mandamus directing the respondents not to give the affect of the advertisement dated 03.05.2006;

d. Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

e. Award the cost of the writ petition to the petitioner."

3. The matter relates to the cancellation of the tender process for cutting and sale of the trees in the area proposed to be developed as Industrial Park in the district of Udham Singh Nagar.

4. Respondent No. 2 District Magistrate, Udham Singh Nagar invited tenders for the above purpose vide notice (Annexure 1) and the petitioner claims that his bid was the highest among the tenders submitted in response to Annexure 1. It appears that the authorities thought it proper to invite fresh tenders and, therefore, the tender process initiated vide Annexure 1 was cancelled and fresh tenders were invited vide notice (Annexure 5).

5. Mr. M.S. Pal, the learned Senior Counsel for the petitioner vehemently argued that the authorities have acted arbitrarily in canceling the earlier tender process and inviting fresh tenders.

6. It is apparent from notice (Annexure 1) that the authorities had reserved the right to cancel the tender process without assigning any reason. Admittedly, the petitioner's bid was never accepted by the respondents and as such, no right was created in favour of the petitioner. That apart, the petitioner will be free to participate in the fresh tender process initiated vide notice (Annexure 5).

7. As we do not find any illegality in the action of the respondents, the writ petition is liable to be dismissed.

8. The petitioner, in the event he chooses to participate in the fresh tender process, may make a representation to third respondent Land

Development Co. SIDC for adjusting the security amount of Rs. 1,00,000/- (Rupees One Lackh only) deposited by the petitioner in pursuance of notice (Annexure 1) as deposit in response to notice (Annexure 5) or to seek refund of the same in the event of his non-participation in the fresh tender process. It goes without saying that if such a representation is made, third respondent shall consider and decide the same within a period of three days from the receipt of the representation in accordance with law.

9. With the above observation, the writ petition stands disposed of.

10. With the above order, CLMA No. 5377 of 2006 also stands disposed of.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
05.05.2006 **05.05.2006**

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